

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR08-1048

JOHNNY RAZOR

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 15, 2009

APPEAL FROM THE MISSISSIPPI
COUNTY CIRCUIT COURT,
[NO. CR-2002-17]

HONORABLE BARBARA HALSEY,
JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

Johnny Razor appeals from an order of the Mississippi County Circuit Court revoking his suspended sentence for possession of cocaine with intent to deliver. The trial court found that Razor violated the terms and conditions of his suspended sentences due to his failure to live a law-abiding life by possessing a controlled substance with intent to deliver on August 17, 2007, and by delivering a controlled substance on January 11, 2007. The trial court sentenced Razor to ten years in the Arkansas Department of Correction. On appeal, he argues that the trial court erred in finding that he possessed the controlled substance on August 17, 2007, and by allowing into evidence a video of the alleged January 11, 2007 narcotics sale along with a narrative supplied by a police officer, which he contends violates his right of cross-examination and confrontation. We affirm.

On December 27, 2007, the State filed a petition to revoke Razor’s suspended imposition of sentence, alleging that he “failed to live a law-abiding life, to be of good behavior and not violate any federal, state, or municipal laws,” by committing drug offenses on three specific dates. As noted

previously, the trial court found sufficient evidence that Razor had committed drug crimes on August 17, 2007, and January 11, 2007. Because the State must prove only one violation to establish that Razor violated the conditions of his suspended sentences, *see Brock v. State*, 70 Ark. App. 107, 14 S.W.3d 908 (2000), we find it necessary only to address Razor’s argument challenging the sufficiency of the evidence supporting the trial court’s finding that he had failed to live a law abiding life with regard to the “August 17, 2007 incident.”¹ When we review a trial court’s findings that an appellant violated the terms and conditions of his or her suspended sentence, those findings are upheld unless they are clearly against a preponderance of the evidence. *Ramsey v. State*, 60 Ark. App. 206, 959 S.W.2d 765 (1998). Evidence that is insufficient to support a criminal conviction may be sufficient to support a revocation. *Id.*

At trial, Officer Steve Caudle testified that on August 17, 2007, he was involved in the execution of a search warrant for a residence at 2233 Kenwood in Blytheville. Razor and four other individuals were inside the residence. In one bedroom, Officer Caudle found cocaine in the pocket of a fur coat, near where he found Razor’s driver’s license, pill bottles with Razor’s name on them, and Razor’s parole paperwork. Razor was arrested on account of what the police uncovered in the search. Razor denied that he had left these personal effects in the bedroom.

Razor argues that the evidence regarding his possession of cocaine with intent to deliver was insufficient because the house in which the contraband was found was rented to Tiffany Mouton, there were four other people inside the residence, and, “at best” the cocaine was found in the same bedroom

¹ Razor’s argument concerning the video related to the alleged January 11, 2007 delivery of narcotics. Razor, however, failed to include a copy of the video in his addendum. Accordingly, we do not address this issue, and in light of our holding in regard to the August 17, 2007 incident, it is not necessary to order rebriefing.

as his driver's license, pill bottles, and parole paperwork. Razor asserts that finding the narcotics with his personal effects was insufficient to "link" him to the contraband. We disagree.

Constructive possession may be implied when contraband is found in a home occupied by the accused and another, if there is an additional factor linking the accused to the contraband. *E.g.*, *Stanton v. State*, 344 Ark. 589, 42 S.W.3d 474 (2001). The additional factors must show that the accused had control over the contraband and knowledge of its presence. *Id.* Constructive possession may be established by circumstantial evidence. *Crossley v. State*, 304 Ark. 378, 802 S.W.2d 459 (1991).

Although Razor discounts the presence of his personal documents and effects near where police found the cocaine, we believe this evidence cuts the other way and establishes his culpability. The presence of personal items has been held by our supreme court to be the required linking factors for establishing constructive possession. *Walley v. State*, 353 Ark. 586, 112 S.W.3d 349 (2003). While it is true that Razor disputed having his personal effects in the bedroom where the contraband was located, the trial court was not required to believe him. *See id.* Accordingly, we hold that the trial court did not err in finding that Razor was engaging in unlawful activity in violation of the terms and conditions of his suspended imposition of sentence.

Affirmed.

VAUGHT, C.J., and BROWN, J., agree.